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CENTRAL DISTRICT OF CALIFORNIA
Los Angeles, California

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MULTI-FORMAT, INC.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

03-5660 LGB (RZx)

Case No.

MULTI-FORMAT, INC., a New Jersey
corporation,

Plaintiff,

vs.

AMAZON.COM, INC., a Delaware
corporation; BEST BUY, INC., a Minnesota
corporation; BUY.COM, INC., a Delaware
corporation; CIRCUIT CITY STORES, INC.,
a Virginia corporation; COSTCO, INC., a
Washington corporation; FRY'S
ELECTRONICS, INC., a California
corporation; K-MART, INC., a Michigan
corporation; RADIOSHACK
CORPORATION, a Delaware corporation;
SEARS, ROEBUCK & CO., a New York
corporation; TARGET CORPORATION, a
Minnesota corporation; and WAL-MART
STORES, INC., a Delaware corporation,

Defendants.

COMPLAINT FOR PATENT
INFRINGEMENT, PERMANENT
INJUNCTION, AND DAMAGES

DEMAND FOR JURY TRIAL

1 For its complaint against Defendants Amazon.Com, Inc. (“Amazon”), Best
2 Buy, Inc. (“Best Buy”), Buy.Com, Inc. (“Buy.Com”), Circuit City, Inc. (“Circuit
3 City”), Costco, Inc. (“Costco”), Fry’s Electronics, Inc. (“Fry’s”), K-Mart, Inc. (“K-
4 Mart”), Radio Shack, Inc. (“Radio Shack”), Sears Roebuck & Co. (“Sears”), Target,
5 Inc. (“Target”), and Wal-Mart, Inc. (“Wal-Mart”) (collectively “Defendants”),
6 Plaintiff Multi-Format, Inc. (“Multi-Format”) alleges as follows:

JURISDICTION AND VENUE

8 1. This is a civil action arising in part under laws of the United States
9 relating to patents (35 U.S.C. §§ 271, 281, 283, 284, and 285). This court has federal
10 jurisdiction of such federal question claims pursuant to 28 U.S.C. §§ 1331 and
11 1338(a).

12 2. The acts and transactions complained of herein were conceived, carried
13 out, made effective, and had effect within the State of California and within this
14 district, among other places. Venue is proper under 28 U.S.C. §§ 1391(b), 1391(c)
15 and 1400(b), in that the patents at issue are the property of a corporation that resides
16 in this judicial district, Defendants reside in this judicial district, and Defendants have
17 committed acts of infringement in this judicial district.

THE PARTIES

19 3. Plaintiff Multi-Format, Inc. is a corporation duly organized and existing
20 under the laws of the State of New Jersey, with its principal place of business at 80
21 Hamilton Avenue, Dumont, New Jersey 07628.

22 4. Defendant Amazon.Com, Inc. is a corporation duly organized and
23 existing under the laws of the State of Delaware, with its principal place of business at
24 1200 12th Avenue South, Suite 1200, Seattle, Washington 98144-2734. Amazon has
25 a registered agent for the service of process located at 1010 Union Avenue SE,
26 Olympia, WA 98501.

27 5. Defendant Best Buy, Inc. is a corporation duly organized and existing
28 under the laws of the State of Minnesota, with its principal place of business at 7075

1 Flying Cloud Drive, Eden Prairie, MN 55355. Best Buy has a registered agent for the
2 service of process located at 401 2nd Avenue South, Minneapolis, MN 55401.

3 6. Defendant Buy.Com, Inc. is a corporation duly organized and existing
4 under the laws of the State of Delaware, with its principal place of business at 85
5 Enterprise, Aliso Veijo, CA 92656. Buy.Com has a registered agent for the service of
6 process located at 12631 East Imperial Highway, Suite D116, Santa Fe Springs, CA
7 90670.

8 7. Defendant Circuit City Stores, Inc. is a corporation duly organized and
9 existing under the laws of the State Virginia with its principal place of business at
10 9950 Maryland Drive, Richmond, VA 23233. Circuit City has a registered agent for
11 the service of process located at 11 S 12th Street, Richmond, VA 23218.

12 8. Defendant Costco, Inc. is a corporation duly organized and existing
13 under the laws of the State of Washington, with its principal place of business at 999
14 Lake Drive, Issaquah, WA 98027. Costco has a registered agent for the service of
15 process located at 999 Lake Drive, Issaquah, WA 98027.

16 9. Defendant Fry's Electronics, Inc. is a corporation duly organized and
17 existing under the laws of the State of California, with its principal place of business
18 at 600 East Brokaw Road, San Jose, CA 95112 . Fry's has a registered agent for the
19 service of process located at 600 East Brokaw Road, San Jose, CA 95112.

20 10. Defendant K-Mart, Inc. is a corporation duly organized and existing
21 under the laws of the State of Michigan, with its principal place of business at 3100
22 W. Big Beaver Rd, Troy, MI 48084. K-Mart has a registered agent for the service of
23 process located at One Commercial Plaza, Hartford, CT 06103.

24 11. Defendant RadioShack Corporation. is a corporation duly organized and
25 existing under the laws of the State of Delaware, with its principal place of business at
26 Charles D. Tandy Center, 100 Throckmorton Street, Fort Worth, Texas 76102. Radio
27 Shack has a registered agent for the service of process located at 800 Brazos, Austin,
28 TX 78701.

1 12. Defendant Sears, Roebuck & Co. is a corporation duly organized and
2 existing under the laws of the State of New York, with its principal place of business
3 at Homan & Arthington St., Chicago, IL. Sears has a registered agent for the service
4 of process located at 425 West Capitol Avenue, Suite 1700, Little Rock, AR 72201.

5 13. Defendant Wal-Mart, Inc. is a corporation duly organized and existing
6 under the laws of the State of Delaware with its principal place of business at 702 SW
7 8th Street, Bentonville, AR 72716. Wal-Mart has a registered agent for the service of
8 process located at 120 East Fourth Street, Little Rock, AR 72201.

9 **BACKGROUND FACTS COMMON TO ALL CLAIMS**

10 14. On April 15, 2003, United States Letters Patent No. RE 38,079, entitled
11 "MULTI-FORMAT AUDIO/VIDEO PRODUCTION SYSTEM," was duly and
12 legally issued for inventions comprising systems and methods for processing a video
13 program ("the '079 patent"). Plaintiff Multi-Format is the owner by assignment of the
14 entire right, title, and interest in and to the '079 patent. (A true and correct copy of
15 the '079 patent is attached hereto as Exhibit 1).

16 15. Prior to the filing of this Complaint, each Defendant has received written
17 notice from Multi-Format of the '079 patent and that the '079 patent covers their
18 activities.

19 16. Immediately following the filing of this Complaint, but before formal
20 service of the Complaint and Summons, Multi-Format will provide each Defendant
21 with additional written notice of the '079 patent. Included with this notice, will be an
22 explanation as to how each Defendants' activities with respect to sales of DVD discs,
23 DVD players, and personal computers are covered by the '079 patent. Also included
24 will be proposed patent License Agreements. Multi-Format will provide each
25 Defendant with a period of time following the filing of this Complaint and prior to the
26 formal service of this Complaint within which to conduct due diligence and enter into
27 license agreements.

FIRST CLAIM FOR RELIEF

**INFRINGEMENT OF U.S. PATENT NO. RE 38,079 AGAINST DEFENDANTS
AMAZON, BEST BUY, BUY.COM, CIRCUIT CITY, COSTCO, FRY'S, K.-
MART, TARGET, AND WAL-MART FOR SALES OF DVD DISCS**

17. Plaintiff incorporates herein by reference the allegations set forth in paragraphs 1-16 of this Complaint as though fully set forth herein.

18. Defendants Amazon, Best Buy, Buy.Com, Circuit City, Costco, Fry's, K-Mart, Target, and Wal-Mart for a long time past have been and still are infringing the '079 patent under 35 U.S.C. § 271(b) by actively inducing direct infringement by end-user consumers who purchase DVD discs. Defendants Amazon, Best Buy, Buy.Com, Circuit City, Costco, Fry's, K-Mart, Target, and Wal-Mart have the specific intent to encourage direct infringement of the '079 patent by end-user consumers who purchase DVD discs. Defendants' Amazon, Best Buy, Buy.Com, Circuit City, Costco, Fry's, K-Mart, Target, and Wal-Mart actions, including their sales, advertising, and instructions, induced direct infringement by the end-user consumers who purchase DVD discs. Defendants Amazon, Best Buy, Buy.Com, Circuit City, Costco, Fry's, K-Mart, Target, and Wal-Mart knew or should have known that their actions would induce direct infringement by end-user consumers who purchase DVD discs.

19. Defendants Amazon, Best Buy, Buy.Com, Circuit City, Costco, Fry's, K-Mart, Target, and Wal-Mart for a long time past have been and still are infringing the '079 patent under 35 U.S.C. § 271(c) by contributing to the direct infringement by end-user consumers who purchase DVD discs. The DVD discs sold by Defendants Amazon, Best Buy, Buy.Com, Circuit City, Costco, Fry's, K-Mart, Target, and Wal-Mart constitute a material part of the claimed inventions of the '079 patent and are not staple articles or commodities of commerce suitable for substantial non-infringing use. Defendants Amazon, Best Buy, Buy.Com, Circuit City, Costco, Fry's, K-Mart, Target, and Wal-Mart know that the DVD discs are being used by the end-user

1 consumers as a material part of the claimed inventions of the '079 patent.

2 20. Defendants' foregoing acts of infringement were and continue to be
3 willful.

4 21. As a result of Defendants' infringement, Multi-Format has suffered
5 monetary damages in an amount not yet determined, and will continue to suffer
6 damages in the future unless Defendants' infringing activities are enjoined by this
7 Court.

8 22. Unless a preliminary and permanent injunction are issued enjoining
9 Defendants and their agents, servants, employees, attorneys, representatives, and all
10 others acting on their behalf from infringing the '079 patent, Multi-Format will be
11 greatly and irreparably harmed.

12 **SECOND CLAIM FOR RELIEF**

13 **INFRINGEMENT OF U.S. PATENT NO. RE 38,079 AGAINST ALL**
14 **DEFENDANTS FOR SALES OF DVD PLAYERS**

15 23. Plaintiff incorporates herein by reference the allegations set forth in
16 paragraphs 1-22 of this Complaint as though fully set forth herein.

17 24. Defendants Amazon, Best Buy, Buy.Com, Circuit City, Costco, Fry's, K-
18 Mart, Radio Shack, Sears, Target, and Wal-Mart for a long time past have been and
19 still are infringing the '079 patent under 35 U.S.C. § 271(b) by actively inducing
20 direct infringement by end-user consumers who purchase DVD players. Defendants
21 Amazon, Best Buy, Buy.Com, Circuit City, Costco, Fry's, K-Mart, Radio Shack,
22 Sears, Target, and Wal-Mart have the specific intent to encourage direct infringement
23 of the '079 patent by end-user consumers who purchase DVD players. Defendants'
24 Amazon, Best Buy, Buy.Com, Circuit City, Costco, Fry's, K-Mart, Radio Shack,
25 Sears, Target, and Wal-Mart actions, including their sales, advertising, and
26 instructions, induced direct infringement by the end-user consumers who purchase
27 DVD players. Defendants Amazon, Best Buy, Buy.Com, Circuit City, Costco, Fry's,
28 K-Mart, Radio Shack, Sears, Target, and Wal-Mart knew or should have known that

their actions would induce direct infringement by end-user consumers who purchase DVD players.

25. Defendants' foregoing acts of infringement were and continue to be willful.

26. As a result of Defendants' infringement, Multi-Format has suffered monetary damages in an amount not yet determined, and will continue to suffer damages in the future unless Defendants' infringing activities are enjoined by this Court.

27. Unless a preliminary and permanent injunction are issued enjoining Defendants and their agents, servants, employees, attorneys, representatives, and all others acting on their behalf from infringing the '079 patent, Multi-Format will be greatly and irreparably harmed.

THIRD CLAIM FOR RELIEF

**INFRINGEMENT OF U.S. PATENT NO. RE 38,079 AGAINST DEFENDANTS
AMAZON, BEST BUY, BUY.COM, CIRCUIT CITY, COSTCO, FRY'S,
RADIO SHACK, SEARS, AND WAL-MART FOR SALES OF PERSONAL
COMPUTERS EQUIPPED WITH DVD DRIVES**

28. Plaintiff incorporates herein by reference the allegations set forth in paragraphs 1-27 of this Complaint as though fully set forth herein.

29. Defendants Amazon, Best Buy, Buy.Com, Circuit City, Costco, Fry's, Radio Shack, Sears, and Wal-Mart for a long time past have been and still are infringing the '079 patent under 35 U.S.C. § 271(b) by actively inducing direct infringement by end-user consumers who purchase personal computers equipped with DVD drives. Defendants Amazon, Best Buy, Buy.Com, Circuit City, Costco, Fry's, Radio Shack, Sears, and Wal-Mart have the specific intent to encourage direct infringement of the '079 patent by end-user consumers who purchase personal computers equipped with DVD drives. Defendants' Amazon, Best Buy, Buy.Com, Circuit City, Costco, Fry's, Radio Shack, Sears, and Wal-Mart actions, including their

1 sales, advertising, and instructions, induced direct infringement by the end-user
2 consumers who purchase personal computers equipped with DVD drives. Defendants
3 Amazon, Best Buy, Buy.Com, Circuit City, Costco, Fry's, Radio Shack, Sears, And
4 Wal-Mart knew or should have known that their actions would induce direct
5 infringement by end-user consumers who purchase personal computers equipped with
6 DVD drives.

7 30. Defendants' foregoing acts of infringement were and continue to be
8 willful.

9 31. As a result of Defendants' infringement, Multi-Format has suffered
10 monetary damages in an amount not yet determined, and will continue to suffer
11 damages in the future unless Defendants' infringing activities are enjoined by this
12 Court.

13 32. Unless a preliminary and permanent injunction are issued enjoining
14 Defendants and their agents, servants, employees, attorneys, representatives, and all
15 others acting on their behalf from infringing the '079 patent, Multi-Format will be
16 greatly and irreparably harmed.

FOURTH CLAIM FOR RELIEF

INFRINGEMENT OF U.S. PATENT NO. RE 38,079 AGAINST DEFENDANTS

**AMAZON, BEST BUY, BUY.COM, CIRCUIT CITY, COSTCO, FRY'S,
RADIO SHACK, SEARS, AND WAL-MART FOR SALES OF PERSONAL
COMPUTERS NOT EQUIPPED WITH DVD DRIVES, BUT WHICH HAVE
THE ABILITY TO DOWNLOAD VIDEO PROGRAMS VIA THE INTERNET**

33. Plaintiff incorporates herein by reference the allegations set forth in paragraphs 1-32 of this Complaint as though fully set forth herein.

34. Defendants Amazon, Best Buy, Buy.Com, Circuit City, Costco, Fry's, Radio Shack, Sears, and Wal-Mart for a long time past have been and still are infringing the '079 patent under 35 U.S.C. § 271(b) by actively inducing direct infringement by end-user consumers who purchase personal computers not equipped

1 with DVD drives, but which have the ability to download video programs via the
2 Internet. Defendants Amazon, Best Buy, Buy.Com, Circuit City, Costco, Fry's,
3 Radio Shack, Sears, and Wal-Mart have the specific intent to encourage direct
4 infringement of the '079 patent by end-user consumers who purchase personal
5 computers not equipped with DVD drives, but which have the ability to download
6 video programs via the Internet. Defendants' Amazon, Best Buy, Buy.Com, Circuit
7 City, Costco, Fry's, Radio Shack, Sears, and Wal-Mart actions, including their sales,
8 advertising, and instructions, induced direct infringement by the end-user consumers
9 who purchase personal computers not equipped with DVD drives, but which have the
10 ability to download video programs via the Internet. Defendants Amazon, Best Buy,
11 Buy.Com, Circuit City, Costco, Fry's, Radio Shack, Sears, and Wal-Mart knew or
12 should have known that their actions would induce direct infringement by end-user
13 consumers who purchase personal computers not equipped with DVD drives, but
14 which have the ability to download video programs via the Internet.

15 35. Defendants' foregoing acts of infringement were and continue to be
16 willful.

17 36. As a result of Defendants' infringement, Multi-Format has suffered
18 monetary damages in an amount not yet determined, and will continue to suffer
19 damages in the future unless Defendants' infringing activities are enjoined by this
20 Court.

37. Unless a preliminary and permanent injunction are issued enjoining Defendants and their agents, servants, employees, attorneys, representatives, and all others acting on their behalf from infringing the '079 patent, Multi-Format will be greatly and irreparably harmed.

PRA YER FOR RELIEF

WHEREFORE, Plaintiff, Multi-Format, Inc., prays for judgment against Defendants on each Claim for Relief set forth above as follows:

28 (1) That Defendants have induced others to infringe, and/or committed acts

1 of contributory infringement with respect to the claims of the '079 patent under 35
2 U.S.C. § 271(b), and/or (c);

3 (2) That Defendants, their subsidiaries, officers, agents, servants, employees,
4 licensees, and all other persons or entities acting or attempting to act in active concert
5 or participation with them or acting on their behalf, be preliminarily and permanently
6 enjoined from further infringement, inducement of infringement, or contributory
7 infringement of the '079 patents;

8 (3) That this case be declared an exceptional case under 35 U.S.C. § 285 and
9 Defendants be ordered to pay Multi-Format's costs, expenses, and reasonable
10 attorney's fees pursuant to 35 U.S.C. §§ 284 and 285;

11 (4) That the Court grant such other and further relief as the Court may deem
12 just and proper under the circumstances.

14 DATED: August 8, 2003

HENNIGAN BENNETT & DORMAN LLP

16 By _____
17 
18 Alan P. Block

19 Attorneys for Plaintiff,
20 MULTI-FORMAT, INC.

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2 **DEMAND FOR JURY TRIAL**
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Plaintiff hereby demands a jury trial pursuant to Rule 38 of the Federal Rules of Civil Procedure as to all issues in this lawsuit.

5 DATED: August 8, 2003
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HENNIGAN BENNETT & DORMAN LLP

8 By _____
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11 Alan P. Block
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10 Attorneys for Plaintiff,
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